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C O N F I D E N T I A L SECTION 01 OF 02 CARACAS 000989

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TAGS: PGOV PREL PHUM VE

SUBJECT: SUPREME COURT LEAK QUESTIONS BRV DISQUALIFICATION
OF CANDIDATES

REF: A. CARACAS 0000949

1B. CARACAS 0000856

1C. CARACAS 0000267

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Classified By: ACTING POLITICAL COUNSELOR DANIEL LAWTON,
REASON 1.4 (D)

11. (C) Summary. A draft ruling by Supreme Court (TSJ) Justice Pedro Rondon Haaz calls the disqualification of close to 300 candidates for Venezuela's gubernatorial and mayoral elections by Comptroller General Clodosbaldo Russian unconstitutional. TSJ President Luisa Estella Morales told the local media July 16 that Haaz's leaked document is merely a working document with no legal standing. She suggested the TSJ may not rule on this issue before August 5, when eligible candidates may begin registering for the November gubernatorial and mayoral elections. The Comptroller General's list continues to foment divisions within the opposition and prevent strong opposition candidates from running for state and local office. While opposition to the measure appears to be growing, neither President Chavez nor other BRV officials have given any indication that they are considering backtracking on this issue. End Summary.

One Legal Opinion

12. (SBU) Local press published the findings of a draft ruling on candidate ineligibility for local and state elections by TSJ Justice Rondon Haaz, a judge from the Constitutional Chamber of the TSJ, on July 15. The draft ruling declares the ineligibility of the candidates unconstitutional, "due to serious violation to the Constitution...that directly damages the fundamental rights to defense, due process, definition of sanctions, political participation, and the right to elected public office."

13. (SBU) TSJ President Luisa Estella Morales criticized the leak, but not the legal argument of the draft, in July 16 comments to the press. Morales stressed that the disqualification issue had not been settled, stating that the leaked draft was not the TSJ's final decision. She added that the Supreme Court may not even address the issue until after the August 5 deadline for candidate registration for November elections. Morales, like Rondon Haaz, is a member of the Constitutional Chamber of the Supreme Court, in addition to her role as President of the TSJ. A number of affected politicians are seeking TSJ stays that would allow them to register as candidates.

¶4. (SBU) Russian declared over 400 candidates, mostly from the opposition, ineligible because of allegations of corruption or misadministration. He subsequently reduced the list to 272 ineligible candidates, removing names of politicians whose periods of punishment had lapsed. National Electoral Commission (CNE) President Tibisay Lucena has repeatedly said that the CNE will prevent persons on the Comptroller's list from registering as candidates.

Opposition Divided

¶5. (C) Opposition politicians openly concede that the BRV's disqualifications of numerous leading opposition candidates is complicating their efforts to determine consensus candidates. Chacao Mayor Leopoldo Lopez is the opposition's best candidate to win the Caracas mayoral seat, but he is on the Comptroller's list. The same is true of San Cristobal Mayor William Mendez, the opposition's leading candidate for the governorship of Tachira State, and former Miranda Governor Enrique Mendoza, the opposition's leading candidate for the Miranda State governorship. Not surprisingly, these and other ineligible candidates' competitors are urging the candidates on the Comptroller's list to step aside. Only a few thousand attended the opposition's July 12 march in Caracas against the ineligible list.

¶6. (C) At the same time, Un Nuevo Tiempo (UNT) is endeavoring to generate international attention to this issue. UNT International Relations Director Timoteo Zambrano has succeeded in getting a number of statements from political groupings at the European Parliament critical of the BRV on this issue. He and other Venezuelan politicians are also asking the Inter-American Commission of Human Rights to issue

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a "stay" before August 5. Zambrano is also urging parliamentarians from Mercosur member states to speak out on this issue. Most opposition politicians tell us they do not believe Venezuela's highly politicized judiciary will provide timely, legal relief, but believe the BRV may be susceptible to international pressure.

Comment

¶7. (C) While President Chavez has publicly expressed support for his Comptroller General, opposition to the disqualifications has been growing, especially among Venezuelan university students (Refs A and B) and Catholic Church leaders. Opposition politicians claim 80 percent of Venezuelans oppose the disqualifications, although they also concede that it is not yet an issue that generates sizable street protests. Chavez has backtracked on a number of issues in recent months, including the Counterintelligence Law and the Bolivarian Curriculum, in response to public opposition, but he has not given any indication so far that he intends to do so on this issue. Interestingly, the disqualifications appear to be turning Leopoldo Lopez into a national opposition figure, rather than just a rising star in Caracas. The BRV may gain in some key state and local races with the disqualifications, but appears to be making "martyrs" of some key opposition figures and damaging its international reputation at the same time.

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